



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Patent Petitions Related to Application and Reexamination Processing Fees

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a proposed extension of an existing information collection.

DATES: Written comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]

ADDRESSES: You may submit comments by any of the following methods:

- *Email:* InformationCollection@uspto.gov. Include “0651–0059 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571-272-7728; or by email to raul.tamayo@uspto.gov

with “0651–0059 comment” in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. § 131 et seq. to examine an application for patent and, when appropriate, issue a patent. The USPTO also is required to publish patent applications, with certain exceptions, promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under Title 35, United States Code.

Many actions taken by the USPTO during its examination of an application for patent or for reissue of a patent, or during its reexamination of a patent, are subject to review by an appeal to the Patent Trial and Appeal Board. For other USPTO actions, review is in the form of administrative review obtained via submission of a petition to the USPTO. USPTO petitions practice also provides an opportunity for a patent applicant or owner to supply additional information that may be required in order for the USPTO to further process an application or patent.

This collection covers petitions filed in patent applications and reexamination proceedings that, when submitted to the USPTO, must be accompanied by the fee set forth in 37 CFR 1.17(f), (g), or (h). This collection also covers the transmittals for the petition fees.

II. Method of Collection

The items in this collection can be submitted electronically through EFS-Web, the USPTO's web-based electronic filing system. Items also can be submitted on paper by mail, facsimile, or hand delivery to the USPTO. The petitions to make special under the accelerated examination program only can be filed through EFS-Web.

III. Data

OMB Number: 0651–0059.

IC Instruments and Forms: PTO/SB/17P, PTO/SB/23, PTO/SB/24a, PTO/SB/28 (EFS-Web only), and PTO/SB/140.

Type of Review: Revision of a Previously Existing Information Collection.

Affected Public: Business or other for profit; non-profit institutions.

Estimated Number of Respondents: 40,560 responses per year. The USPTO estimates that 26% will be filed by small entities and 3% by micro entities. 98% of all responses will be filed electronically.

Estimated Time per Response: The USPTO estimates that the response time for activities related to these patent petitions will take the public approximately 5 minutes (0.08 hours) to 12 hours to complete, depending on the particular item. (See Table 1.) This includes time to gather the necessary information, create the documents, and submit the completed request to the USPTO. The USPTO calculates that, on balance, it takes the same amount of time to prepare the petition and the fee transmittal form, and submit them to the USPTO, regardless of whether the applicant or patent owner submits the material electronically or in paper form.

Estimated Total Annual Respondent Burden Hours: 42,195.00 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$17,284,617.00 The USPTO expects that attorneys will complete all of the items in this collection, with the exception of the petitions for requests for documents in a form other than that provided by 37 CFR 1.19 and the petitions for express abandonment to avoid publication under 37 CFR 1.138(c), both of which the USPTO expects will be completed by para-professionals. The hourly rates for attorneys and paraprofessionals are \$410 and \$141, respectively. These rates are established by estimates in the 2015 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association. Using these hourly rates, the USPTO estimates that the total respondent cost burden for this collection is \$17,284,617.00 per year.

Table 1: Respondent Hourly Burden

IC #	Item	Estimated Time for Response (Hours) (a)	Estimated Annual Responses (b)	Estimated Annual Burden Hours (a) x (b) / 60 = (c)	Rate (\$/hr)
1	Petitions (corresponding to the fee) under 37 CFR 1.17(f) include: Petition to Accord a Filing Date under 1.57(b)(3) or 1.57(a)(3) (pre-PLT) Petition to Accord a Filing Date under 1.53(e)(2) Petition for Decision on a Question Not Specifically Provided For under 1.182 Petition to Suspend the Rules under 1.183	4.00	50	200.00	\$410
1	EFS-Web Petitions (corresponding to the fee) under 37 CFR 1.17(f)	4.00	2,750	11,000.00	\$410
2	Petitions (corresponding to the fee) under 37 CFR 1.17(g): Petition to Access an Assignment Record under 1.12(c) Petition for Access to an Application under 1.14(i) Petition for Expungement of Information under 1.59(b) Petition to Suspend Action in an Application under 1.103(a)	2.00	100	200.00	\$410
2	EFS-Web Petitions (corresponding to the fee) under 37 CFR 1.17(g)	2.00	5,000	10,000.00	\$410

3	Petitions (corresponding to the fee) under 37 CFR 1.17(h): Petition for Accepting Color Drawings or Photographs under 1.84(a)(2) Petition for Entry of a Model or Exhibit under 1.91(a) Petition to Withdraw an Application from Issue under 1.313(a) PTO/SB/140 Petition to Defer Issuance of a Patent under 1.314	1.00	250	250.00	\$410
3	EFS-Web Petitions (corresponding to the fee) under 37 CFR 1.17(h)	1.00	11,500	11,500.00	\$410
4	Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	1.00	5	5.00	\$141
4	EFS-Web Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	1.00	50	50.00	\$141
5	Petitions to Make Special Under Accelerated Examination Program PTO/SB/28 (EFS-Web Only)	12.00	600	7,200.00	\$410
6	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c) PTO/SB/24a	0.20	10	2.00	\$141
6	EFS-Web Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	0.20	490	98.00	\$410
7	Petition for Extension of Time Under 37 CFR 1.136(b) PTO/SB/23	0.50	5	2.50	\$410
7	EFS-Web Petition for Extension of Time Under 37 CFR 1.136(b)	0.50	100	50.00	\$410
8	Petition Fee under 37 CFR 1.17(f), (g), and (h) Transmittal PTO/SB/17P	0.08	400	33.33	\$410
8	EFS-Web Petition Fee under 37 CFR 1.17(f), (g), and (h) Transmittal	0.08	19,250	1,604.17	\$410
Totals	---	---	40,560	42,195.00	---

Estimated Total Annual (Non-hour) Respondent Cost Burden: \$3,147,594.80. There are no capital start-up, operation, or maintenance costs associated with this information collection. However, the public may incur cost burden in the form of postage and filing fees.

The public may incur postage costs when submitting the items in this collection.

Although the USPTO prefers that the items in this collection be submitted electronically, the items may be submitted to the USPTO by mail through the United States Postal Service. The USPTO expects that approximately 98 percent of the items in this

collection will be submitted electronically (except for the petitions to make special under the accelerated examination program, which must be submitted electronically), resulting in 820 mailed submissions (though items that are not electronically filed may alternatively be submitted by mail, facsimile or hand delivery, for the purposes of this estimate, the USPTO is treating all items that are not filed electronically as though they were mailed). The average cost for a four-ounce large envelope shipped first-class via USPS is \$1.64. Therefore, the USPTO estimates that the postage costs for the mailed submissions in this collection will total \$1,344.80.

There are filing fees associated with this collection, which were previously accounted for in collection 0651-0072. That collection has been discontinued, and the relevant fees have been consolidated into to this collection. These fees are listed in the table below.

Table 2: Filing Fees

#	Item	Estimated Annual Responses (a)	Filing fee (\$) (b)	Total Non-hour Cost Burden (\$) (a) x (b) = (c)
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I) (large entity)	1,400	\$400	\$560,000.00
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I) (small entity)	1,150	\$200	\$230,000.00
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I) (micro entity)	250	\$100	\$25,000.00
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II) (large entity)	4,500	\$200	\$900,000.00
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II) (small entity)	550	\$100	\$55,000.00
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II) (micro entity)	50	\$50	\$2,500.00
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III) (large entity)	8,000	\$140	\$1,120,000.00
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III) (small entity)	3,500	\$70	\$245,000.00
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III) (micro entity)	250	\$35	\$8,750.00

Totals	---	19,650	---	\$3,146,250.00
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Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs and filing fees is \$3,147,594.80 per year.

IV. Request for Comments

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Comments are invited on:

- (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
- (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;
- (c) ways to enhance the quality, utility, and clarity of the information to be collected; and
- (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Marcie Lovett,

Records and Information Governance Division Director, OCTO

United States Patent and Trademark Office.

BILLING CODE 3510-16-P

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